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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 JACOB IVAN SCHMITT,

11 Petitioner,

12 v.

13 MIKE OBENLAND,

14 Respondent.

CASE NO. 3:18-cv-05602-BHS-JRC

ORDER GRANTING STAY

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16 The District Court has referred this petition for a writ of habeas corpus to United States
17 Magistrate Judge J. Richard Creatura. The authority for the referral is 28 U.S.C. § 636(b)(1)(A)
18 and (B), and local Magistrate Judge Rules MJR3 and MJR4. The petition is filed pursuant to 28
19 U.S.C. § 2254.

20 Petitioner Jacob Ivan Schmitt filed this petition in July of 2018. Dkt. 1. After the Court
21 directed service of the petition, Dkt. 7, respondent filed a motion to stay the petition, Dkt. 10. He
22 argues that petitioner has filed a mixed petition, containing both exhausted and unexhausted
23 grounds, and that petitioner is currently exhausting his state court remedies as to his unexhausted
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1 grounds. *Id.* Therefore, respondent asks the Court to stay petitioner's habeas proceeding until he
2 is able to exhaust his unexhausted grounds. *Id.* Petitioner did not file an objections to a stay of
3 the habeas proceedings. *See* Dkt.

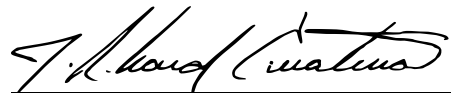
4 The Court has the authority to stay consideration of a habeas petition to allow a petitioner
5 to exhaust his remedies in state court before returning to federal court. *See Rhines v. Weber*, 544
6 U.S. 269, 274-79 (2005). Here, respondent has stated that petitioner is still in the process of
7 exhausting his state court remedies, and petitioner did not oppose a stay. Therefore, it is

8 ORDERED:

- 9 1) This case is stayed until March 1, 2019. Respondent is directed to file a report
10 advising the Court of the status of petitioner's state court relief and, if necessary, file
11 a motion to extend the stay on or before February 15, 2019 – fourteen days before the
12 stay ends.
- 13 2) Should the state court terminate review of petitioner's state court filing, either
14 petitioner or respondent will inform the Court and file a motion to lift the stay within
15 30 days of the state court's decision.
- 16 3) The Clerk is directed to note the February 15, 2019 deadline on the docket for this
17 case.

18 Dated this 30th day of October, 2018.

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J. Richard Creatura
United States Magistrate Judge